

REMARKS

The Office Action of December 13, 2006 has been received and carefully reviewed. It is submitted that, by this Amendment, all bases of rejection are traversed and overcome. Upon entry of this Amendment, claims 1-30 remain in the application. New claim 31 has been added in order to set forth an additional specific embodiment of the Applicant's invention. Support for this recitation may be found in the specification as filed, at least at page 7, lines 20-22. Reconsideration of the claims is respectfully requested.

Claims 2 and 4 have been amended to correct typographical errors and/or to improve readability of the claim(s).

Claims 1-11 stand rejected under 35 U.S.C. § 101 because the claimed invention is, according to the Examiner, directed to non-statutory subject matter. The Examiner states that the subject matter in the instant application fails to define a result in the process that is being claimed. The Examiner concludes that claim 1 and the claims depending therefrom fail to provide a practical application that produces a useful, tangible, and concrete result. The Examiner further states that claim 20 provides evidence that claim 1 constitutes a disembodied computer algorithm.

Applicant respectfully disagrees with the Examiner. Although a computer algorithm may be used to accomplish one or more of the steps provided in the method for directing service in a vehicle, other means for accomplishing the same are also disclosed in the Applicant's specification. For example, services may be delivered or sent via a live agent, such as a human advisor (see page 7, lines 18-20). One skilled in the art would be cognizant of the fact that delivery via a human agent would not require a computer algorithm code. The result of the method of claim 1 is the service that is transmitted to a vehicle in response to the request. As stated in Applicant's specification as filed at page 14, lines 26-28, the service may be news, weather, sports, finance, email services, and other data. Such services are useful and tangible (i.e., perceptible via the senses) results. Applicant therefore submits that claim 1, and the claims depending ultimately therefrom, clearly define a result in the process or method that is being claimed. Accordingly, it is submitted that the Examiner's rejection is erroneous, and withdrawal of the same is respectfully requested.

Claims 20-30 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Examiner states that the claim(s) contain subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Examiner states that the specification fails to clearly provide an adequate description of "medium."

Applicant submits that the word "medium" is not explicitly stated in Applicant's specification, however, Applicant submits that an explicit statement thereof is not necessary. As provided by the Federal Circuit in *Bancorp Services, L.L.C. v. Hartford Life Ins. Co.*, the claim term "surrender value protected investment credits", that was not defined or used in the specification, was discernible and not indefinite because "the components of the term have well recognized meaning, which allow the reader to infer the meaning of the entire phrase with reasonable confidence." *Bancorp Services, L.L.C. v. Hartford Life Ins. Co.*, 359 F.3d 1367, 1372, 69 USPQ2d 1996, 1999-2000 (Fed. Cir. 2004). An English definition of the word "medium" is "a means or instrumentality for storing or communicating information." (<http://wordnet.princeton.edu/perl/webwn?s=medium>, March 7, 2007) Furthermore, the MPEP itself (§ 2106.01) states that a "computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized...." The recitation of "medium" in the MPEP and the definition given above indicate that one skilled in the art would be cognizant of the meaning of the term "medium", as the Applicant uses it. It is further submitted that one skilled in the art would know the appropriate media that is computer-usable. Accordingly, it is submitted that the Examiner's rejection is erroneous, and withdrawal of the same is respectfully requested.

Claims 1-6, 8-16, 18-25 and 27-30 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Bhatia et al. (U.S. Publication No. 2002/0090932). Regarding claims 1, 12 and 20, the Examiner states that Bhatia teaches 1) receiving and updating a mobile subscriber location; 2) determining a real-time subscriber deliver-enabling information based on the service request and the location, 3) customizing (i.e., configuring) the service corresponding to the service request; and 4) providing the customer information to the

subscriber. The Examiner has interpreted Applicant's claimed service management subsystem to be equivalent to the collective elements of the content provider and the B2B engine described by Bhatia.

In response to the Applicant's arguments set forth in Applicant's Amendment filed in response to the Office Action of June 30, 2006, the Examiner maintains his position that the combination of Bhatia's B2B engine and the content provider is the service management system as provided in claim 1. The Examiner bases his argument **on the Applicant's specification**, which states that the service management subsystem can consist of one or more applications and managers.

In response thereto, Applicant respectfully disagrees with the Examiner's conclusions regarding Bhatia, and respectfully submits that such use of the Applicant's specification constitutes impermissible hindsight.

The invention as provided in Applicant's claims 1, 12 and 20 includes "a service management subsystem", which as indicated by the Examiner, "may comprise one or more service management applications 42 and one or more managers 44." The Applicant's subsystem may include the one or more applications or managers, where the "application **42** may be any suitable software application for managing one or more services" and the "service managers **44** may be any suitable hardware and/or software configuration or structure for executing applications **42**." (See Applicant's specification at page 8, lines 13-16). As such, the application(s) and manager(s) contribute to the subsystem's management and configuration of the received services.

The services, as described by the Applicant, are provided from one or more different service sources such as, for example, a weather service 248 or the news service 236. (See page 11, lines 24-25, and page 12, lines 1-2.) These services are received by the service management subsystem, and are configured by the service management subsystem according to the service request. The services are then sent from the service management subsystem to the vehicle requesting the service.

As recited in the independent claims herein, the service management subsystem is also configured to manage user information. Support for this recitation may be found in the specification as filed, at least at page 7, line 15 through page 8, line 16.

As such, it is submitted that the Applicant's subsystem may contain one or more applications and managers, and that such components contribute to managing and configuring user information and services received by other sources.

In sharp contrast, Bhatia teaches a B2B engine that manages real-time information, and a content provider that **retrieves and manages** service information. Bhatia further teaches that the B2B engine and the content provider are two distinct entities. Bhatia clearly indicates that customization of the service (i.e., information provided by the content provider) occurs at the content provider **after** the real time information is customized by the B2B engine and is sent to the content provider (see Col. 4, lines 1-5). The Bhatia reference taken alone (**without** knowledge gleaned from the Applicant's disclosure) does NOT teach or suggest that the B2B engine and the content provider should be combined into a single management system. Applicant again submits that Bhatia actually *teaches away* from such a combination by stating that the function of the B2B engine is to **maintain the real-time information exchange between the mobile operator and the respective content providers** (see paragraph [0047]).

The Examiner is basing his conclusions about the Bhatia reference on the Applicant's specification as filed (see the Office Action at page 8). As such, Applicant respectfully submits that the Examiner is using impermissible hindsight from Applicant's disclosure in order to assume that Bhatia teaches or even suggests a single system capable of performing the functions of the B2B engine and the content provider.

The Federal Circuit has spoken to the issue of impermissible hindsight on numerous occasions. In *In re David H. Fine*, 837 F.2d 1071, 5 U.S.P.Q. (BNA) 1596 (Fed. Cir. 1988), the court stated:

To reach a proper conclusion under § 103, the decisionmaker must step backward in time and into the shoes worn by [a person having ordinary skill in the art] when the invention was unknown and just before it was made. In light of *all* the evidence, the decisionmaker must then determine whether . . . the claimed invention as a whole would have been obvious at *that* time to *that* person. 35 U.S.C. § 103. The answer to that question partakes more of the nature of law than of fact, for it is an ultimate conclusion based on a foundation formed of all the probative facts. (emphasis in original) *Id.* at 1073-74, quoting *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1566 (Fed. Cir. 1987)

Further, the *Fine* court stated at 1075:

Because neither Warnick nor Eads, alone or in combination, suggests the claimed invention, the Board erred in affirming the Examiner's conclusion that it would have been obvious to substitute the Warnick nitric oxide detector for the Eads sulfur dioxide detector in the Eads system. *ACS Hosp. Sys.*, 732 F.2d at 1575-77, 221 USPQ at 931-33. **The Eads and Warnick references disclose, at most, that one skilled in the art might find it obvious to try the claimed invention. But whether a particular combination might be "obvious to try" is not a legitimate test of patentability.** [references omitted] (emphasis added)

The first quote above from the *Fine* court makes it clear that the Examiner must "step backward in time" to just before the present invention was made, and look at Bhatia **without knowledge gleaned from Applicant's disclosure**. If the Examiner did this, in light of the detailed discussion above of what the skilled artisan would glean from the reference (i.e., distinct entities – one of which manages real-time information and the other of which manages service information), he would come to the conclusion that the reference does not speak to the issue of a single management system at all.

It is therefore submitted that the invention as defined in claims 1, 12 and 20, and the claims depending therefrom, are not anticipated, taught or rendered obvious in view of Bhatia, either alone or in combination, and patentably define over the art of record.

Claims 7, 17 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bhatia et al. in view of Doi et al. (U.S. Publication No. 2001/0014911). The Examiner states that Bhatia does not disclose configuring a vehicle communication component in the vehicle based on the vehicle delivery-enabling information. The Examiner further states that Doi teaches a mobile terminal comprising a dynamic user profile memory configured to store a dynamic user profile representing information dynamically changed by time. The Examiner concludes that, at the time of the invention, it would have been obvious to modify Bhatia to include Doi in order to obtain a system, method and medium, that has the flexibility to allow different users to use the same vehicle and afford the user the ability to change his/her preferences in the system in order to receive the necessary information from the network.

For the reasons provided hereinabove, Bhatia fails to teach all elements of claims 1, 12 and 20. Furthermore, Doi fails to teach the deficiencies of Bhatia and thus, the combination of Bhatia and Doi does not teach all elements of independent claims 1, 12 and 20, as well as claims 7, 17 and 26 that ultimately depend therefrom. Thus, it is submitted that Applicant's invention as defined in claims 7, 17 and 26 is not anticipated, taught or rendered obvious by Bhatia in view of Doi, and patentably defines over the art of record.

For all the reasons stated above, it is submitted that Applicant's invention as defined in claims 1-30 is not anticipated, taught or rendered obvious by the cited reference(s), either alone or in combination, and patentably defines over the art of record.

In summary, claims 1-30 remain in the application, and new claim 31 has been added herein. It is submitted that, through this Amendment, Applicant's invention as set forth in these claims is now in a condition suitable for allowance.

Further and favorable consideration is requested. If the Examiner believes it would expedite prosecution of the above-identified application, the Examiner is cordially invited to contact Applicant's Attorney at the below-listed telephone number.

Respectfully submitted,

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